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Attorneys for Defendant
TARGET CORPORATION

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TREVON MALIK CROFTON,

Plaintiff,

v.

TARGET CORPORATION, a Minnesota
Corporation, and DOES 1 through 20,
Inclusive,

Defendant.

Case No.

**NOTICE OF REMOVAL OF CIVIL
ACTION TO FEDERAL COURT**

Trial Date: TBD
Complaint Filed: September 22, 2021

**TO THE CLERK OF COURT, TO THE PARTIES, AND TO THE PARTIES’
COUNSEL OF RECORD, PLEASE TAKE NOTICE THAT** Defendant TARGET
CORPORATION (“Defendant” or “Target”), by and through the undersigned counsel, and pursuant
to 28 U.S.C. §§ 1332, 1441, and 1446, hereby gives notice of removal of this lawsuit from the Superior
Court of the State of California, County of Kern, to the United States District Court for the Eastern
District of California (the “Notice of Removal”). In support of its Notice of Removal, Defendant
respectfully submits to this Honorable Court the following information:

STATEMENT OF JURISDICTION (DIVERSITY)

1. Removal jurisdiction exists because this Court has original jurisdiction over the
unverified Complaint of Plaintiff TREVON CROFTON (“Plaintiff”) pursuant to 28 U.S.C. § 1332,
and which may be removed to this Court pursuant to 28 U.S.C. § 1441, as it is a civil action in which

neither the plaintiff nor any defendants are citizens of the same state and in which the amount in controversy exceeds \$75,000, exclusive of interest and costs (Diversity Jurisdiction). As discussed in more detail herein, Plaintiff was a citizen of the County of Kern, State of California, at the time the operative Complaint was filed in Kern County Superior Court. *See* Exhibit A, ¶ 1, the “Complaint” (Civil Action No. BCV-21-102237, *Trevon Malik Crofton v. Target Corporation, a Minnesota Corporation, and Does 1 through 20, inclusive*). Defendant is – and at the time Plaintiff’s Complaint was filed was – a Minnesota corporation with its principal place of business in Minnesota. *See* concurrently-filed Declaration of Kirsten Bass (“Bass Decl.”), ¶ 2. Plaintiff is not currently a citizen of Minnesota; nor was Plaintiff a citizen of Minnesota during the events giving rise to this action. *See* Exhibit A, ¶ 1; *see also* Bass Decl., ¶ 4. As such, this case meets all of the requirements for removal, is timely, and is properly removed by the filing of this Notice of Removal.

STATE COURT ACTION

2. On or about September 22, 2021, Plaintiff filed this action in Kern County Superior Court. *See* Complaint, available at Exhibit A hereto. This action was served on Defendant on September 27, 2021. *See* concurrently-filed Declaration of Vanessa M. Cohn (“Cohn Decl.”), ¶ 2.

3. Plaintiff’s Complaint purports to assert eight causes of action for: (1) discrimination in violation of California Family Rights Act (“CFRA”); (2) retaliation in violation of CFRA; (3) disability discrimination in violation of the Fair Employment and Housing Act (“FEHA”); (4) failure to provide reasonable accommodation in violation of FEHA; (5) failure to engage in a good faith interactive process in violation of FEHA; (6) retaliation in violation of FEHA; (7) failure to prevent discrimination and retaliation in violation of FEHA; and, (8) wrongful termination in violation of public policy.

4. Defendant filed a General Denial and Affirmative Defenses to Plaintiff’s Complaint on October 25, 2021. *See* Exhibit B hereto. *See* Cohn Decl., ¶ 7.

5. The remaining submissions in this action on file with the Kern County Superior Court are attached hereto as Exhibit C.

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TIMELINESS OF NOTICE OF REMOVAL

6. An action may be removed from state court by filing a notice of removal, together with a copy of all process, pleadings, and orders served on the defendant, within 30 days of Defendant receiving an “initial pleading setting forth the claim for relief upon which such action or proceeding is based.” 28 U.S.C. § 1446(b). Here, Plaintiff served the Complaint on September 27, 2021. *See* Cohn Decl., ¶ 2. Therefore, Defendant can remove this action up to and including October 27, 2021. *See* FED. R. CIV. P. 6(a).

VENUE

7. Pursuant to 28 U.S.C. § 1391(a) and 28 U.S.C. § 1441, venue is proper in the United States District Court for the Eastern District of California insofar as Defendant conducts business within Kern County, California, which is where Plaintiff was employed, where the instant action was originally filed, and which is within this Court’s jurisdiction.

NOTICE TO PLAINTIFF

8. As required by 28 U.S.C. § 1446(d), Defendant provided written notice of the filing of this Notice of Removal to Plaintiff. *See* Defendant’s Notice to Plaintiff of Removal to Federal Court, attached hereto as Exhibit D.¹

NOTICE TO THE KERN COUNTY SUPERIOR COURT

9. Defendant also filed this Notice of Removal with the Clerk of the Kern County Superior Court. *See* Defendant’s Notice to State Court of Removal of Civil Action to Federal Court, attached hereto as Exhibit E.²

FACTS AND LAW SUPPORTING DIVERSITY JURISDICTION

10. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441(b). Specifically, this is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs,

¹ So as to avoid burdening this Court with duplicative filings, the attachments to Exhibit D have been omitted from this filing.

² So as to avoid burdening this Court with duplicative filings, the attachments to Exhibit E have been omitted from this filing.

1 because Plaintiff in effect claims that Plaintiff is entitled to an award in excess of \$75,000 as result of
2 Defendant's alleged conduct.

3 11. Defendant is informed and believes that Plaintiff is a citizen and resident of the
4 State of California. *See* Complaint, Exhibit A, ¶ 1 ("Plaintiff, at all relevant times herein resided in
5 Kern County, California").

6 12. Defendant is a corporation duly organized and existing under the laws of the
7 State of Minnesota, and it maintains its principal place of business in Minneapolis, Minnesota. *See*
8 concurrently-filed Bass Decl., at ¶ 2. Thus, Defendant is a citizen of Minnesota, and Defendant is not
9 a citizen of California.

10 13. In measuring the amount in controversy where it is not explicitly pleaded, this
11 Court must assume that the allegations of the Complaint are true and that a jury will return a verdict
12 in favor of Plaintiff on all claims asserted in the Complaint. *Kenneth Rothschild Trust v. Morgan*
13 *Stanley Dean Witter*, 199 F.Supp.2d 1001 (C.D. Cal. 2002). The ultimate inquiry is the amount that is
14 put "in controversy" by Plaintiff's Complaint, and not how much, if anything, Defendant will actually
15 owe (if anything). *Rippee v. Boston Market Corp.*, 408 F.Supp.2d 982, 986 (S.D. Cal. 2005); *see also*
16 *Schere v. Equitable Life Assurance Soc'y of the U.S.*, 347 F.3d 394, 399 (2d Cir. 2003) (recognizing
17 that the ultimate or provable amount of damages is not what is considered in the removal analysis;
18 rather, it is the amount put in controversy by a plaintiff's complaint). Economic damages, non-
19 economic damages, general damages, attorneys' fees and costs, and punitive damages all are included
20 in determining the amount in controversy. *See Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155-
21 1156 (9th Cir. 1998) (prayer for attorneys' fees included in determining the amount in controversy
22 where potentially recoverable by statute); *Anthony v. Security Pacific Financial Services, Inc.*, 75 F.3d
23 311, 315 (7th Cir. 1996) (prayer for punitive damages included in determining amount in controversy).

24 14. Where, as here, a plaintiff's state court complaint is silent as to the *total* amount
25 of damages claimed, a removing defendant need only establish that it is more probable than not that
26 plaintiff's claim exceeds the jurisdictional minimum. *Sanchez v. Monumental Life Ins. Co.*, 95 F.3d
27 856, 860-861 (9th Cir. 1996), *amended by, reh'ng en banc denied by*, 102 F.3d 398, 404 (9th Cir.
28 1996).

15. To that end, should Plaintiff prevail on Plaintiff's claims for violations of California's Fair Employment and Housing Act and the California Family Rights Act, and wrongful termination in violation of public policy, Plaintiff would be entitled to recover the amount that Plaintiff would have earned up to the present date, including benefits or pay increases. *See Wise v. Southern Pac. Co.*, 1 Cal.3d 600, 607 (1970). While Defendant disputes that Plaintiff is entitled to recover any damages, for the sake of argument, Defendant analyzes the damages pleaded in the Complaint. Here, Plaintiff alleges that Plaintiff was employed by Defendant through Plaintiff's termination March 11, 2021. *See* Exhibit A, the Complaint, ¶ 16. Plaintiff's last rate of pay was \$21.78 per hour. Bass Decl., ¶ 4. Plaintiff worked on average at least 40 hours per week for Defendant. Bass Decl., ¶ 4. Plaintiff seeks lost income from the date of termination on March 11, 2021, through to the present and into the future. *See, e.g.*, Exhibit A, the Complaint, ¶¶ 25, 37, 48, 59, 70, 82, 94, and 106 ("As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and continues to suffer losses in earnings and other benefits and will for a period of time in the future...") As of the date of this Notice of Removal, it has been approximately 33 weeks since Plaintiff was separated from employment with Defendant. Given Plaintiff's rate of pay, Plaintiff alleges to have suffered at least \$28,749.60 in damages in the form of lost income as of the date of this filing, with the damages continuing into the future through trial continuing at least at the rate of \$871.20 per week.

16. Additionally, Plaintiff seeks an award of attorneys' fees in connection with Plaintiff's claims for violation of California's Fair Employment and Housing Act. *See, e.g.*, Exhibit A, the Complaint, Prayer ¶ 2 (wherein Plaintiff prays for judgment to include "attorney's fees according to proof"). While Defendant again disputes that Plaintiff is entitled to recover any damages in connection with this action, attorney's fees are also included in the amount in controversy calculation when the underlying claims permit recovery of attorneys' fees. *Galt G/S*, 142 F.3d at 1156. One recent Eastern District case involving similar allegations of discrimination, retaliation and whistleblowing resulted in fees exceeding half a million dollars. *Jadwin v. County of Kern*, 767 F. Supp. 2d 1069, 1141 (E.D. Cal. 2011) (approving award of \$535,700 in attorneys' fees in employment case involving discrimination, retaliation and whistleblowing claims). In cases well over 10 years old (and, thus, not accounting for inflation), attorneys' fee awards under FEHA regularly exceeded

1 \$75,000. *See, e.g., Flannery v. Prentic*, 26 Cal.4th 572 (2001) (\$1,088,231 fee award upheld); *Dwyer*
 2 *v. Crocker Nat'l Bank*, 194 Cal.App.3d 1418 (1987) (\$75,258 in attorneys' fees awarded under
 3 FEHA); *see also Rivera v. Costco Wholesale Corp.*, 2008 U.S. Dist. LEXIS 58610, *12-13 (N.D. Cal.
 4 2008), *citing Simmons v. PCR Tech.*, 209 F. Supp. 2d 1029, 1035 (N.D. Cal. 2002) ("attorneys' fees
 5 in individual discrimination cases often exceed the damages"). Accordingly, attorneys' fees alone are
 6 likely to be greater than \$75,000.

7 17. Plaintiff also seeks damages for the emotional distress allegedly suffered.
 8 Exhibit A, the Complaint, ¶¶ 26, 38, 49, 60, 71, 83, 95, 107 ("...Plaintiff suffered general damages as
 9 he was psychologically injured. Such injuries have caused, and continue to cause, Plaintiff great
 10 mental pain and suffering in an amount in excess of this Court's minimal jurisdiction"). Again, though
 11 Defendant contests that Plaintiff is entitled to any such recovery, Plaintiff's claim for emotional
 12 distress damages further augments the foregoing amounts and demonstrates that the jurisdictional
 13 prerequisite for removal of this action is met. *See Lockett v. Delta Airlines, Inc.*, 171 F.3d 295, 298
 14 (5th Cir. 1999) (claims for pain, suffering and humiliation properly may be factored into the
 15 jurisdictional analysis for purposes of removal). For the sake of analysis of the jurisdictional
 16 prerequisite for removal of this action, past rulings reflect that plaintiffs in employment cases have
 17 been awarded substantial sums for emotional distress. *See, e.g., Swinton v. Potomac Corp.*, 270 F.3d
 18 794 (9th Cir. 2001), *cert. denied*, 535 U.S. 1018 (2002) (award of \$30,000); *Redfield v. Insurance Co.*
 19 *of N. Am.*, 940 F.2d 542 (9th Cir. 1991), *overruled on other grounds, Dotson v. United States*, 87 F.3d
 20 682 (5th Cir. 1996) (award of \$25,000). In *Kroske v. U.S. Bank Corp.*, 432 F.3d 976 (9th Cir. 2005),
 21 *cert denied*, 127 S.Ct. 157 (2006), the Ninth Circuit upheld the lower court's finding that the amount
 22 in controversy had been established. In reaching its holding, the Ninth Circuit reasoned that the
 23 plaintiff's "emotional distress damages would add at least an additional \$25,000 to her claim" where
 24 she had only \$55,000 in lost wages, thus satisfying the amount in controversy requirement "even
 25 without including a potential award of attorney's fees." *Kroske*, 432 F.3d at 980. A similar result is
 26 compelled here, as Plaintiff expressly seeks damages for emotional distress and a comparable amount
 27 of lost wages is at issue. Thus, based on *Kroske* and other analogous cases, the emotional distress
 28 component of Plaintiff's claims is likely to add at least \$25,000 to the amount in controversy, if not

1 more. The foregoing, when taken together with Plaintiff's claims for back pay, front pay, and
 2 attorney's fees, easily places the amount of controversy in excess of \$75,000.

3 18. The amount in controversy includes punitive damages unless punitive damages
 4 are not recoverable as a matter of state law, and it is a legal certainty that plaintiff would not be entitled
 5 to recover the jurisdictional amount. *Anthony*, 75 F3d at 315; *St. Paul Reinsurance Co., Ltd. v.*
 6 *Greenburg* (5th Cir. 1998) 134 F3d 1250, 1253-1254.) Here, Plaintiff alleges that Plaintiff is entitled
 7 to punitive damages for Defendant's alleged willful and malicious misconduct, but does not provide a
 8 total amount of the alleged punitive damages sought. *See* Exhibit A, the Complaint, ¶¶ 28, 40, 51, 62,
 9 73, 85, 97, 109 ("the employees, officers, directors, and/or managing agents of Defendant acted with
 10 malice and oppression, as their unlawful acts were carried out with full knowledge of the extreme risk
 11 of injury involved, and with willful and conscious disregard for Plaintiff's rights. They also acted
 12 fraudulently, as they willfully concealed the fact that Plaintiff's employment rights were being
 13 violated, with the intent to deprive him of employment benefits. Accordingly, an award of punitive
 14 damages is warranted"). With respect to punitive damages, California law does not provide any
 15 specific monetary limit on the amount of punitive damages which may be awarded under Civil Code
 16 section 3294, and the proper amount of punitive damages under California law is based on the
 17 reprehensibility of a defendant's misdeeds, the ratio between compensatory and punitive damages, and
 18 ratio between damages and a defendant's net worth. *Boyle v. Lorimar Productions, Inc.*, 13 F.3d 1357
 19 (9th Cir. 1994). While Defendant vehemently disputes it is liable for any punitive damages, outcomes
 20 in California reflect the likelihood that if Plaintiff prevails at trial, Plaintiff's damages would exceed
 21 the \$75,000 amount in controversy threshold. *See e.g., Rivera* 2008 U.S. Dist. LEXIS 58610 at *10-
 22 11, *citing Kolas v. Access Business Group LLC*, 2008 WL 496470 (Los Angeles Super. Ct.) (jury
 23 awarded the plaintiff \$200,000 in emotional distress damages for wrongful termination due to his age
 24 and an injury he incurred on the job); *Lopez v. Bimbo Bakeries USA Inc.*, 2007 WL 4339112 (San
 25 Francisco Super. Ct.) (jury awarded the plaintiff \$122,000 in emotional distress damages and
 26 \$2,000,000 in punitive damages for wrongful termination, failure to prevent discrimination and failure
 27 to accommodate a pregnant employee who requested fifteen minute breaks every two hour); *Wysinger*
 28 *v. Automobile Club of Southern California*, 2006 WL 397031 (Santa Barbara Super. Ct.) (awarding

1 \$1,000,000 in punitive damages to an employee terminated due to his age and disability). Although
2 Defendant vigorously denies Plaintiff's allegations, if Plaintiff were to prevail, the punitive damages
3 alone could exceed the jurisdictional minimum.

4 19. Thus, while Defendant's position is that Plaintiff is not entitled to damages in
5 any amount, the total amount in controversy appears to be, *at a minimum*, well over \$75,000 as of the
6 date of this Notice of Removal, which is reflective of the sum of \$28,749.60 in alleged lost income to
7 date, at least \$75,000 in attorney's fees, and \$25,000 in emotional distress damages.

8 20. Consequently, the requirements of 28 U.S.C. § 1332(a) have been met in that
9 the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and because this is a
10 civil action between citizens of different states.

11 WHEREFORE, pursuant to 28 U.S.C. § 1332, 1441, and 1446, Defendant removes this
12 case from the Superior Court of the State of California, County of Kern, to the United States Court for
13 the Eastern District of California.

14 Dated: October 26, 2021

LITTLER MENDELSON P.C.

16 /s/ Vanessa M. Cohn

17 Irene V. Fitzgerald
Vanessa M. Cohn

18 Attorneys for Defendant
19 TARGET CORPORATION

20
21 4871-1305-9072.1 / 052067-1000
22
23
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25
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27
28

Exhibit A



**Service of Process
Transmittal**

09/27/2021

CT Log Number 540314324

TO: Employee Relations
Target Corporation
1000 NICOLLET MALL
MINNEAPOLIS, MN 55403-2542

RE: Process Served in California

FOR: Target Corporation (Domestic State: MN)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Re: TREVON MALIK CROFTON, an Individual // To: Target Corporation

DOCUMENT(S) SERVED: --

COURT/AGENCY: None Specified
Case # BCV21102237

NATURE OF ACTION: Employee Litigation - Wrongful Termination

ON WHOM PROCESS WAS SERVED: C T Corporation System, GLENDALE, CA

DATE AND HOUR OF SERVICE: By Process Server on 09/27/2021 at 01:25

JURISDICTION SERVED : California

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: CT has retained the current log, Retain Date: 09/27/2021, Expected Purge Date: 10/02/2021

Image SOP

Email Notification, Employee Relations ct.service@target.com

REGISTERED AGENT ADDRESS: C T Corporation System
330 N BRAND BLVD
STE 700
GLENDALE, CA 91203
877-564-7529
MajorAccountTeam2@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.



PROCESS SERVER DELIVERY DETAILS

Date: Mon, Sep 27, 2021

Server Name: Jimmy Lizama

Entity Served TARGET CORPORATION

Case Number BCV-21-102237

Jurisdiction CA



SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

TARGET CORPORATION, a Minnesota Corporation, and DOES 1 through 20, Inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

TREVON MALIK CROFTON, an individual,

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED

9/24/2021
Kern County Superior Court
By Vickie Fogerson, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte puede desechar el caso.

The name and address of the court is: Kern County Superior Court
(El nombre y dirección de la corte es):

Kern County Superior Court
1415 Truxtun Ave,
Bakersfield, CA 93301

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

A. Jacob Nalbandyan, Esq. (272023) | Ryan Handley, Esq. (334695)

Levin & Nalbandyan, LLP

811 Wilshire Blvd, Suite 800

Los Angeles, CA 90017 | Tel: (213) 232-4848 | Fax: (213) 232-4849

DATE:

(Fecha) 9/24/2021

TAMARAH HARBER-PICKENS

Clerk, by

(Secretario)

Vickie M. F.

Deputy
(Adjunto)

CASE NUMBER:

(Número del Caso):

BCV-21-102237

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): TARGET CORPORATION, a Minnesota Corporation,

under: ☒ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

4. ☐ by personal delivery on (date):

Page 1 of 1

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): A. Jacob Nalbandyan, Esq. (272023) Ryan Handley, Esq. (334695) Levin & Nalbandyan, LLP 811 Wilshire Blvd, Suite 800, Los Angeles, CA 90017 TELEPHONE NO.: (213) 232-4848 FAX NO.: (213) 232-4849 ATTORNEY FOR (Name): Trevon Malik Crofton		FOR COURT USE ONLY ELECTRONICALLY FILED 9/22/2021 2:47 PM Kern County Superior Court By Vickie Fogerson, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Kern STREET ADDRESS: 1415 Truxtun Ave MAILING ADDRESS: 1415 Truxtun Ave CITY AND ZIP CODE: Bakersfield, CA 93301 BRANCH NAME: Kern County Superior Court		
CASE NAME: Trevon Malik Crofton v. Target Corporation		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER: BCV-21-102237
		JUDGE: DEPT:

Items 1-5 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input checked="" type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- | | |
|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial post judgment judicial supervision |

3. Type of remedies sought (check all that apply):

- a. ☒ monetary b. ☒ non monetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): Eight (8)

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 09/22/21

A. Jacob Nalbandyan, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE • Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions. • File this cover sheet in addition to any cover sheet required by local court rule. • If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding. • Unless this is a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers

If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 5 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. You do not need to submit a cover sheet with amended papers. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Complex Cases

In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES**Auto Tort**

Auto (22)-Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice-Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach-Seller
Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case-Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ-Administrative Mandamus
Writ-Mandamus on Limited Court Case Matter
Writ-Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal-Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgement (Out of County)
Confession of Judgement (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief for Late Claim
Other Civil Petition

ELECTRONICALLY FILED
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Kern County Superior Court
By Vickie Fogerson, Deputy

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Attorneys for Plaintiff,
TREVON MALIK CROFTON

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

TREVON MALIK CROFTON, an individual,
Plaintiff,

vs.

TARGET CORPORATION, a Minnesota
Corporation, and DOES 1 through 20, Inclusive,
Defendants.

Case No.: BCV-21-102237

COMPLAINT FOR DAMAGES

- 1. DISCRIMINATION IN VIOLATION OF THE CALIFORNIA FAMILY RIGHTS ACT**
- 2. RETALIATION IN VIOLATION OF THE CALIFORNIA FAMILY RIGHTS ACT**
- 3. DISABILITY DISCRIMINATION IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT**
- 4. FAILURE TO PROVIDE REASONABLE ACCOMODATIONS IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT**
- 5. FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT**
- 6. RETALIATION IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT**
- 7. FAILURE TO PREVENT DISCRIMINATION AND RETALIATION**

) IN VIOLATION OF THE FAIR
) EMPLOYMENT AND HOUSING ACT
) 8. WRONGFUL TERMINATION IN
) VIOLATION OF PUBLIC POLICY

) Demand over \$25,000

) DEMAND FOR JURY TRIAL

TREVON MALIK CROFTON ("Plaintiff") is informed and believes, and alleges thereon, the following:

PARTIES, VENUE, AND JURISDICTION

1. Plaintiff, at all relevant times herein resided in Kern County, California.

2. Defendant TARGET CORPORATION, ("Defendant") is a Minnesota corporation with multiple places of business in Kern County, California.

3. Plaintiff is informed and believes, and thereon alleges that Defendant is engaged in the business of providing retail services.

4. The unlawful acts pleaded herein occurred in Kern County, California.

5. Venue is proper in Kern County pursuant to California Government Code § 12965.

6. Plaintiff is unaware of the true names and capacities of DOES 1 through 20, inclusive, and therefore sues these defendants by their fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained.

7. At all times relevant to this action, each of the fictitiously named defendants was an employee, agent, servant, partner, member, shareholder, officer, director, co-conspirator, or alter ego of Defendants, and was acting within the course and scope of such agency or employment.

8. Each of the fictitiously named defendants is responsible in some manner for the occurrences herein alleged, and such defendants directly and proximately caused Plaintiff's injuries as herein alleged.

9. Pursuant to CAL. GOV'T CODE §§ 12960, *et seq.*, Plaintiff filed a charge against Defendant with the California Department of Fair Employment and Housing ("DFEH") on July 15,

2021, less than one year from the date of most occurrence. On July 15, 2021, Plaintiff received a Notice of Case Closure and Right to Sue Letter from the DFEH.

FACTUAL ALLEGATIONS

10. Plaintiff incorporates, by reference, all allegations in the above paragraphs of this Complaint, as though fully set forth herein.

11. Plaintiff began employment with Defendant in or about August 2019 as a Receiving Associate. His job duties included receiving freight and separating items into pallets.

12. Plaintiff has been asthmatic for much of his life. In about March 2020, when COVID-19 became a significant concern, Plaintiff sought out his doctor, who placed him off of work from about March 17, 2020 to March 19, 2020 for being higher risk. After returning to work for a few days, he was taken off work again for about another month. This continued for the next few months, with his doctor extending his leave monthly. Plaintiff sent his doctor's notes to Defendant through email.

13. In or about November 2020, Plaintiff's doctor placed him off work for three months through February 2021. He again emailed this note to Defendant on or about November 30, 2020.

14. In or about February 2021, Plaintiff's doctor placed him off work for a final three months. He again emailed this note to Defendant on or about February 23, 2021.

15. On or about March 4, 2021, Plaintiff received a certified letter from Defendant dated February 23, 2021 stating that Defendant's records reflected a lapse in available leave beginning around January 2021 and requesting that Plaintiff contact them by March 3, 2021. Plaintiff immediately emailed the HR representative who sent the letter letting her know that he had already sent a doctor's note on February 23, 2021 to Defendant reflecting his need for further medical leave. He did not receive a response. Plaintiff followed up a couple more times but did not receive a response to those efforts either.

16. Plaintiff received a termination letter on or about March 11, 2021.

17. Plaintiff was left embarrassed, ashamed, emotionally hurt, and in financial desperation for having been terminated due to his serious health condition, disability, perceived disability, and/or
///

1 history of disability and for having been directly discriminated and retaliated against for his disability
2 and requests/need for reasonable accommodation.

3
4 **FIRST CAUSE OF ACTION**
5 **DISCRIMINATION IN VIOLATION OF**
6 **THE CALIFORNIA FAMILY RIGHTS ACT**

7 18. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs of this
8 Complaint as though fully set forth herein.

9 19. At all times relevant to this action, Plaintiff was employed by Defendant.

10 20. At all times relevant to this action, Plaintiff suffered from a serious health condition
11 within the meaning of CAL. GOV'T CODE §§ 12945.2(b)(12), *et seq.*

12 21. At all times relevant to this action, Plaintiff is informed, believes, and thereon alleges
13 that Defendant was an employer who regularly employed five or more persons within the meaning of
14 CAL. GOV'T CODE § 12945.2(b)(3)(A).

15 22. At all times relevant to this action, Plaintiff had more than 12 months of service with
16 Defendant, had worked at least 1,250 hours for Defendant during the previous 12 months, and had
17 taken less than 12 weeks of leave the past 12 month period within the meaning of CAL. GOV'T CODE §
18 12945.2(a).

19 23. Defendant unlawfully discriminated against Plaintiff because of his serious health
20 condition and medical leave of absence by terminating him in violation of CAL. GOV'T CODE §§
21 12945.2(a), 12945.2(k), and 12945.2(q).

22 24. Defendant's decision to terminate Plaintiff was substantially motivated by his serious
23 health condition and medical leave of absence, as previously pled herein.

24 25. As a direct and proximate result of Defendant's actions, Plaintiff has suffered and
25 continues to suffer losses in earnings and other benefits, and will for a period of time in the future be
26 unable to obtain gainful employment, as his ability to obtain such employment and earning capacity
27 have been diminished. The exact amount of such expenses and losses is presently unknown, and
28 ///

1 Plaintiff will seek leave of court to amend this complaint to set forth the exact amount when it is
2 ascertained.

3 26. As a direct and proximate result of Defendant's conduct, Plaintiff suffered general
4 damages, as he was psychologically injured. Such injuries have caused, and continue to cause Plaintiff
5 great mental pain and suffering, in an amount in excess of this court's minimal jurisdiction.

6 27. As a direct and proximate result of Defendant's conduct, Plaintiff, for a period of time in
7 the future, will be required to employ physicians and incur additional medical and incidental expenses.
8 The exact amount of such expenses is presently unknown to Plaintiff and he will seek leave of Court to
9 amend this Complaint to set forth the exact amount when it has been ascertained.

10 28. Plaintiff is informed and believes, and thereon alleges that the employees, officers,
11 directors, and/or managing agents of Defendant acted with malice and oppression, as their unlawful acts
12 were carried out with full knowledge of the extreme risk of injury involved, and with willful and
13 conscious disregard for Plaintiff's rights. They also acted fraudulently, as they willfully concealed the
14 fact that Plaintiff's employment rights were being violated, with the intent to deprive him of
15 employment benefits. Accordingly, an award of punitive damages is warranted.

16 29. Plaintiff is informed, and believes and thereon alleges that the actions of Defendant's
17 employees, officers, directors, and/or managing agents were undertaken with the prior approval,
18 consent, and authorization of Defendant and were subsequently authorized and ratified by it as well by
19 and through its officers, directors, and/or managing agents.

20
21 **SECOND CAUSE OF ACTION**
22 **RETALIATION IN VIOLATION OF**
23 **THE CALIFORNIA FAMILY RIGHTS ACT**

24 30. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs of this
25 Complaint as though fully set forth herein.

26 31. At all times relevant to this action, Plaintiff was employed by Defendant.

27 32. At all times relevant to this action, Plaintiff suffered from a serious health condition
28 within the meaning of CAL. GOV'T CODE §§ 12945.2(b)(12), *et seq.*

1 33. At all times relevant to this action, Plaintiff is informed, believes, and thereon alleges
2 that Defendant was an employer who regularly employed five or more persons within the meaning of
3 CAL. GOV'T CODE § 12945.2(b)(3)(A).

4 34. At all times relevant to this action, Plaintiff had more than 12 months of service with
5 Defendant, had worked at least 1,250 hours for Defendant during the previous 12 months, and had
6 taken less than 12 weeks of leave the past 12 month period within the meaning of CAL. GOV'T CODE §
7 12945.2(a).

8 35. Defendant unlawfully retaliated against Plaintiff because of his serious health condition
9 and medical leave of absence by terminating him in violation of CAL. GOV'T CODE §§ 12945.2(a),
10 12945.2(k), and 12945.2(q).

11 36. Defendant's decision to terminate Plaintiff was substantially motivated by his serious
12 health condition and medical leave of absence, as previously pled herein.

13 37. As a direct and proximate result of Defendant's actions, Plaintiff has suffered and
14 continues to suffer losses in earnings and other benefits, and will for a period of time in the future be
15 unable to obtain gainful employment, as his ability to obtain such employment and earning capacity
16 have been diminished. The exact amount of such expenses and losses is presently unknown, and
17 Plaintiff will seek leave of court to amend this complaint to set forth the exact amount when it is
18 ascertained.

19 38. As a direct and proximate result of Defendant's conduct, Plaintiff suffered general
20 damages, as he was psychologically injured. Such injuries have caused, and continue to cause Plaintiff
21 great mental pain and suffering, in an amount in excess of this court's minimal jurisdiction.

22 39. As a direct and proximate result of Defendant's conduct, Plaintiff, for a period of time in
23 the future, will be required to employ physicians and incur additional medical and incidental expenses.
24 The exact amount of such expenses is presently unknown to Plaintiff and he will seek leave of Court to
25 amend this Complaint to set forth the exact amount when it has been ascertained.

26 40. Plaintiff is informed and believes, and thereon alleges that the employees, officers,
27 directors, and/or managing agents of Defendant acted with malice and oppression, as their unlawful acts
28 were carried out with full knowledge of the extreme risk of injury involved, and with willful and

conscious disregard for Plaintiff's rights. They also acted fraudulently, as they willfully concealed the fact that Plaintiff's employment rights were being violated, with the intent to deprive him of employment benefits. Accordingly, an award of punitive damages is warranted.

41. Plaintiff is informed, and believes and thereon alleges that the actions of Defendant's employees, officers, directors, and/or managing agents were undertaken with the prior approval, consent, and authorization of Defendant and were subsequently authorized and ratified by it as well by and through its officers, directors, and/or managing agents.

THIRD CAUSE OF ACTION
DISABILITY DISCRIMINATION IN VIOLATION OF
THE FAIR EMPLOYMENT AND HOUSING ACT

42. Plaintiff incorporates, by reference, all allegations in the above paragraphs of this Complaint, as though fully set forth herein.

43. At all times relevant to this action, Plaintiff was employed by Defendant.

44. At all times relevant to this action, Defendant was an employer who regularly employed five or more persons within the meaning of CAL. GOV'T CODE § 12926(d).

45. At all times relevant to this action, Plaintiff was a member of a protected class within the meaning of CAL. GOV'T CODE §§ 12940(a) and 12926(m) because of his disability, perceived disability, and/or history of disability.

46. At all times relevant to this action, Defendant unlawfully discriminated against Plaintiff on the basis of his disability, perceived disability, and/or history of disability by terminating his employment.

47. Defendant was substantially motivated to terminate Plaintiff because of his disability, perceived disability, and/or history of disability.

48. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and continues to suffer losses in earnings and other benefits and will for a period of time in the future be unable to obtain gainful employment, as his ability to obtain such employment and earning capacity have been diminished. The exact amount of such expenses and losses is presently unknown, and

1 Plaintiff will seek leave of court to amend this Complaint to set forth the exact amount when it is
2 ascertained.

3 49. As a direct and proximate result of Defendant's conduct, Plaintiff suffered general
4 damages as he was psychologically injured. Such injuries have caused, and continue to cause, Plaintiff
5 great mental pain and suffering in an amount in excess of this Court's minimal jurisdiction.

6 50. As a direct and proximate result of Defendant's conduct, Plaintiff, for a period of time
7 in the future, will be required to employ physicians and incur additional medical and incidental
8 expenses. The exact amount of such expenses is presently unknown to Plaintiff and he will seek leave
9 of court to amend this Complaint to set forth the exact amount when it has been ascertained.

10 51. Plaintiff is informed and believes, and thereon alleges that the employees, officers,
11 directors, and/or managing agents of Defendant acted with malice and oppression as their unlawful
12 acts were carried out with full knowledge of the extreme risk of injury involved and with willful and
13 conscious disregard for Plaintiff's rights. They also acted fraudulently, as they willfully concealed the
14 fact that Plaintiff's employment rights were being violated, with the intent to deprive him of
15 employment benefits. Accordingly, an award of punitive damages is warranted.

16 52. Plaintiff is informed and believes, and thereon alleges that the actions of Defendant's
17 employees, officers, directors, and/or managing agents were undertaken with the prior approval,
18 consent, and authorization of Defendant and was subsequently authorized and ratified by them as well
19 by and through its officers, directors, and/or managing agents.

20
21 **FOURTH CAUSE OF ACTION**

22 **FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS IN VIOLATION OF**
23 **THE FAIR EMPLOYMENT AND HOUSING ACT**

24 53. Plaintiff incorporates, by reference, all allegations in the above paragraphs of this
25 Complaint, as though fully set forth herein.

26 54. At all times relevant to this action, Plaintiff was employed by Defendant.

27 55. At all times relevant to this action, Defendant was an employer who regularly
28 employed five or more persons within the meaning of CAL. GOV'T CODE § 12926(d).

1 56. At all times relevant to this action, Plaintiff was a member of a protected class within
2 the meaning of CAL. GOV'T CODE §§ 12926(m) and 12940(a) because of his disability, perceived
3 disability, and/or history of disability.

4 57. At all times relevant to this action, Defendant unlawfully failed to provide Plaintiff
5 reasonable accommodations, in violation of CAL. GOV'T CODE § 12940(m), despite the fact that it had
6 actual and/or constructive knowledge of his disability, need for accommodations, and Plaintiff's actual
7 and/or constructive requests for accommodations.

8 58. Defendant's failure to accommodate Plaintiff was substantially motivated by his
9 disability, perceived disability, and/or history of disability, as previously pled herein.

10 59. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and
11 continues to suffer losses in earnings and other benefits and will for a period of time in the future be
12 unable to obtain gainful employment, as his ability to obtain such employment and earning capacity
13 have been diminished. The exact amount of such expenses and losses is presently unknown, and
14 Plaintiff will seek leave of court to amend this Complaint to set forth the exact amount when it is
15 ascertained.

16 60. As a direct and proximate result of Defendant's conduct, Plaintiff suffered general
17 damages as he was psychologically injured. Such injuries have caused, and continue to cause, Plaintiff
18 great mental pain and suffering in an amount in excess of this Court's minimal jurisdiction.

19 61. As a direct and proximate result of Defendant's conduct, Plaintiff, for a period of time
20 in the future, will be required to employ physicians and incur additional medical and incidental
21 expenses. The exact amount of such expenses is presently unknown to Plaintiff and he will seek leave
22 of court to amend this Complaint to set forth the exact amount when it has been ascertained.

23 62. Plaintiff is informed and believes, and thereon alleges that the employees, officers,
24 directors, and/or managing agents of Defendant acted with malice and oppression as their unlawful
25 acts were carried out with full knowledge of the extreme risk of injury involved and with willful and
26 conscious disregard for Plaintiff's rights. They also acted fraudulently, as they willfully concealed the
27 fact that Plaintiff's employment rights were being violated, with the intent to deprive him of
28 employment benefits. Accordingly, an award of punitive damages is warranted.

63. Plaintiff is informed and believes, and thereon alleges that the actions of Defendant's employees, officers, directors, and/or managing agents were undertaken with the prior approval, consent, and authorization of Defendant and were subsequently authorized and ratified by them as well by and through its officers, directors, and/or managing agents.

FIFTH CAUSE OF ACTION

**FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS IN VIOLATION OF
THE FAIR EMPLOYMENT AND HOUSING ACT**

64. Plaintiff incorporates, by reference, all allegations in the above paragraphs of this Complaint, as though fully set forth herein.

65. At all times relevant to this action, Plaintiff was employed by Defendant.

66. At all times relevant to this action, Defendant was an employer who regularly employed five or more persons within the meaning of CAL. GOV'T CODE § 12926(d).

67. At all times relevant to this action, Plaintiff was a member of a protected class within the meaning of CAL. GOV'T CODE §§ 12926(m) and 12940(a) because of his disability, perceived disability, and/or history of disability.

68. Defendant unlawfully failed to engage in a good-faith, interactive process with Plaintiff to determine effective reasonable accommodations despite the fact that it had actual and/or constructive knowledge of his disability and/or perceived disability, in violation of CAL. GOV'T CODE §§ 12940(n) and 12926.1(e), as previously pled herein.

69. Defendant's failure to engage in a good-faith interactive process with Plaintiff was substantially motivated by his disability, perceived disability, and/or history of disability, as previously pled herein.

70. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and continues to suffer losses in earnings and other benefits and will for a period of time in the future be unable to obtain gainful employment, as his ability to obtain such employment and earning capacity have been diminished. The exact amount of such expenses and losses is presently unknown, and

///

1 Plaintiff will seek leave of court to amend this Complaint to set forth the exact amount when it is
2 ascertained.

3 71. As a direct and proximate result of Defendant's conduct, Plaintiff suffered general
4 damages as he was psychologically injured. Such injuries have caused, and continue to cause, Plaintiff
5 great mental pain and suffering in an amount in excess of this Court's minimal jurisdiction.

6 72. As a direct and proximate result of Defendant's conduct, Plaintiff, for a period of time
7 in the future, will be required to employ physicians and incur additional medical and incidental
8 expenses. The exact amount of such expenses is presently unknown to Plaintiff and he will seek leave
9 of court to amend this Complaint to set forth the exact amount when it has been ascertained.

10 73. Plaintiff is informed and believes, and thereon alleges that the employees, officers,
11 directors, and/or managing agents of Defendant acted with malice and oppression as their unlawful
12 acts were carried out with full knowledge of the extreme risk of injury involved and with willful and
13 conscious disregard for Plaintiff's rights. They also acted fraudulently, as they willfully concealed the
14 fact that Plaintiff's employment rights were being violated, with the intent to deprive him of
15 employment benefits. Accordingly, an award of punitive damages is warranted.

16 74. Plaintiff is informed and believes, and thereon alleges that the actions of Defendant's
17 employees, officers, directors, and/or managing agents were undertaken with the prior approval,
18 consent, and authorization of Defendant and was subsequently authorized and ratified by them as well
19 by and through its officers, directors, and/or managing agents.

20
21 **SIXTH CAUSE OF ACTION**

22 **RETALIATION IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT**

23 75. Plaintiff incorporates, by reference, all allegations in the above paragraphs of this
24 Complaint, as though fully set forth herein.

25 76. At all times relevant to this action, Plaintiff was employed by Defendant.

26 77. At all times relevant to this action, CAL. GOV'T CODE §§ 12900 *et seq.* were in full
27 force and effect and were binding upon Defendant. These sections, *inter alia*, require Defendant to
28 refrain from discriminating and retaliating against any employee on the basis of a disability, perceived

1 disability, and/or history of disability, requests/need for accommodation, and opposition to conduct
2 related thereto.

3 78. Defendant engaged in conduct that, taken as a whole, materially and adversely affected
4 the terms and conditions of Plaintiff's employment.

5 79. Plaintiff's assertion of his rights under CAL. GOV'T CODE §§ 12900 *et seq.* was a
6 substantial motivating reason for Defendant's decision to retaliate against her. Defendant's conduct
7 was a substantial factor in causing harm to Plaintiff, as set forth herein.

8 80. At all times relevant to this action, Defendant unlawfully retaliated against Plaintiff, in
9 violation of CAL. GOV'T CODE §§ 12940(h) and 12940(m)(2) by terminating his employment.

10 81. Defendant's retaliatory termination of Plaintiff's employment was substantially
11 motivated by his disability, perceived disability, and/or history of disability, requests/need for
12 accommodation, and opposition to Defendant's conduct related thereto, as previously pled herein.

13 82. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and
14 continues to suffer losses in earnings and other benefits and will for a period of time in the future be
15 unable to obtain gainful employment, as his ability to obtain such employment and earning capacity
16 have been diminished. The exact amount of such expenses and losses is presently unknown, and
17 Plaintiff will seek leave of court to amend this Complaint to set forth the exact amount when it is
18 ascertained.

19 83. As a direct and proximate result of Defendant's conduct, Plaintiff suffered general
20 damages as he was psychologically injured. Such injuries have caused, and continue to cause, Plaintiff
21 great mental pain and suffering in an amount in excess of this Court's minimal jurisdiction.

22 84. As a direct and proximate result of Defendant's conduct, Plaintiff, for a period of time
23 in the future, will be required to employ physicians and incur additional medical and incidental
24 expenses. The exact amount of such expenses is presently unknown to Plaintiff and he will seek leave
25 of court to amend this Complaint to set forth the exact amount when it has been ascertained.

26 85. Plaintiff is informed and believes, and thereon alleges that the employees, officers,
27 directors, and/or managing agents of Defendant acted with malice and oppression as their unlawful
28 acts were carried out with full knowledge of the extreme risk of injury involved and with willful and

conscious disregard for Plaintiff's rights. They also acted fraudulently, as they willfully concealed the fact that Plaintiff's employment rights were being violated, with the intent to deprive him of employment benefits. Accordingly, an award of punitive damages is warranted.

86. Plaintiff is informed and believes, and thereon alleges that the actions of Defendant's employees, officers, directors, and/or managing agents were undertaken with the prior approval, consent, and authorization of Defendant and was subsequently authorized and ratified by them as well by and through its officers, directors, and/or managing agents.

SEVENTH CAUSE OF ACTION

**FAILURE TO PREVENT DISCRIMINATION AND RETALIATION IN VIOLATION OF
THE FAIR EMPLOYMENT AND HOUSING ACT**

87. Plaintiff incorporates, by reference, all allegations in the above paragraphs of this Complaint, as though fully set forth herein.

88. At all times relevant to this action, Plaintiff was employed by Defendant.

89. At all times relevant to this action, Defendant was an employer who regularly employed five or more persons within the meaning of CAL. GOV'T CODE § 12926(d).

90. At all times relevant to this action, Plaintiff was a member of a protected class within the meaning of CAL. GOV'T CODE §§ 12940(a) and 12926(m) because of his disability, perceived disability, and/or history of disability.

91. At all times relevant to this action, Defendant unlawfully discriminated and retaliated against Plaintiff, as previously alleged, on the basis of his disability, perceived disability, and/or history of disability, requests/need for accommodation, and opposition to related conduct by terminating his employment.

92. Defendant was substantially motivated to terminate Plaintiff because of his disability, perceived disability, and/or history of disability, requests/need for accommodation, and opposition to related conduct, as previously pled herein.

93. Defendant failed to take reasonable steps to prevent the unlawful discrimination and retaliation during Plaintiff's employment, as previously pled, in violation of CAL. GOV'T CODE §

1 12940(k), even when management level employees of Defendant became aware of the discriminatory
2 and retaliatory conduct. Instead, Defendant terminated Plaintiff in bad faith.

3 94. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and
4 continues to suffer losses in earnings and other benefits and will for a period of time in the future be
5 unable to obtain gainful employment, as his ability to obtain such employment and earning capacity
6 have been diminished. The exact amount of such expenses and losses is presently unknown, and
7 Plaintiff will seek leave of court to amend this Complaint to set forth the exact amount when it is
8 ascertained.

9 95. As a direct and proximate result of Defendant's conduct, Plaintiff suffered general
10 damages as he was psychologically injured. Such injuries have caused, and continue to cause, Plaintiff
11 great mental pain and suffering in an amount in excess of this Court's minimal jurisdiction.

12 96. As a direct and proximate result of Defendant's conduct, Plaintiff, for a period of time
13 in the future, will be required to employ physicians and incur additional medical and incidental
14 expenses. The exact amount of such expenses is presently unknown to Plaintiff and he will seek leave
15 of court to amend this Complaint to set forth the exact amount when it has been ascertained.

16 97. Plaintiff is informed and believes, and thereon alleges that the employees, officers,
17 directors, and/or managing agents of Defendant acted with malice and oppression as their unlawful
18 acts were carried out with full knowledge of the extreme risk of injury involved and with willful and
19 conscious disregard for Plaintiff's rights. They also acted fraudulently, as they willfully concealed the
20 fact that Plaintiff's employment rights were being violated, with the intent to deprive him of
21 employment benefits. Accordingly, an award of punitive damages is warranted.

22 98. Plaintiff is informed and believes, and thereon alleges that the actions of Defendant's
23 employees, officers, directors, and/or managing agents were undertaken with the prior approval,
24 consent, and authorization of Defendant and was subsequently authorized and ratified by them as well
25 by and through its officers, directors, and/or managing agents.

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28 ///

EIGHTH CAUSE OF ACTION

WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY

99. Plaintiff incorporates, by reference, all allegations in the above paragraphs of this Complaint, as though fully set forth herein.

100. At all times relevant to this action, Plaintiff was employed by Defendant.

101. At all times relevant to this action, CAL. GOV'T CODE §§ 12900 *et seq.* were in full force and effect and were binding upon Defendant. These sections, *inter alia*, require Defendant to refrain from discriminating, retaliating against, or terminating any employee on the basis of a disability, perceived disability, and/or history of disability, request/need for accommodation, serious health condition, medical leave of absence, and opposition to conduct related thereto.

102. Defendant's conduct, as previously alleged, was in retaliation for Plaintiff's assertion of rights under CAL. GOV'T CODE §§ 12900 *et seq.*

103. Plaintiff's assertion of his rights under CAL. GOV'T CODE §§ 12900 *et seq.* was a substantial motivating reason for Defendant's decision to discriminate, retaliate against, and terminate Plaintiff. Defendant's conduct was a substantial factor in causing harm to Plaintiff as set forth herein.

104. CAL. GOV'T CODE §§ 12900 *et seq.* evinces a policy that benefits society at large, was well-established at the time of Plaintiff's discharge, and is substantial and fundamental.

105. Defendant's wrongful termination of Plaintiff's employment was substantially motivated by his disability, perceived disability, and/or history of disability, requests/need for accommodation, serious health condition, medical leaves of absence, and opposition to conduct related thereto.

106. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and continues to suffer losses in earnings and other benefits and will for a period of time in the future be unable to obtain gainful employment, as his ability to obtain such employment and earning capacity have been diminished. The exact amount of such expenses and losses is presently unknown, and Plaintiff will seek leave of court to amend this Complaint to set forth the exact amount when it is ascertained.

107. As a direct and proximate result of Defendant's conduct, Plaintiff suffered general

1 damages as he was psychologically injured. Such injuries have caused, and continue to cause, Plaintiff
2 great mental pain and suffering in an amount in excess of this Court's minimal jurisdiction.

3 108. As a direct and proximate result of Defendant's conduct, Plaintiff, for a period of time
4 in the future, will be required to employ physicians and incur additional medical and incidental
5 expenses. The exact amount of such expenses is presently unknown to Plaintiff and he will seek leave
6 of court to amend this Complaint to set forth the exact amount when it has been ascertained.

7 109. Plaintiff is informed and believes, and thereon alleges that the employees, officers,
8 directors, and/or managing agents of Defendant acted with malice and oppression as their unlawful
9 acts were carried out with full knowledge of the extreme risk of injury involved and with willful and
10 conscious disregard for Plaintiff's rights. They also acted fraudulently, as they willfully concealed the
11 fact that Plaintiff's employment rights were being violated, with the intent to deprive him of
12 employment benefits. Accordingly, an award of punitive damages is warranted.

13 110. Plaintiff is informed and believes, and thereon alleges that the actions of Defendant's
14 employees, officers, directors, and/or managing agents were undertaken with the prior approval,
15 consent, and authorization of Defendant and was subsequently authorized and ratified by them as well
16 by and through its officers, directors, and/or managing agents.

17
18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff TREVON MALIK CROFTON prays for judgment against Defendant
20 TARGET CORPORATION and DOES 1 through 20, as follows:

- 21 1. Past and future economic and non-economic damages according to proof;
22 2. Pre-judgment interest, post-judgment interest, costs of suit and attorney's fees
23 according to proof;
24 3. Injunctive relief compelling Defendant to reinstate Plaintiff to his previous position,
25 prohibiting Defendant from engaging in similar unlawful conduct as complained of herein, and
26 ordering Defendant to establish effective preventive mechanisms to ensure that the conduct
27 complained of herein does not continue in the future;

28 ///
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1 4. Declaratory relief that Defendant's conduct as complained of herein was a violation of
2 Plaintiff's rights;

3 5. Punitive damages; and

4 6. All other relief that the Court deems just and proper.

5 **DEMAND FOR JURY TRIAL**

6 Plaintiff demands a trial by jury on all claims as provided by California law.

7
8 Dated: September 22, 2021

LEVIN & NALBANDYAN, LLP

9
10 

11
12 By: _____

A. Jacob Nalbandyan, Esq.

Ryan Handley, Esq.

Attorneys for Plaintiff,

TREVON MALIK CROFTON

Exhibit B

Irene V. Fitzgerald, Bar No. 266949
ifitzgerald@littler.com
Vanessa M. Cohn, Bar No. 314619
vcohn@littler.com
LITTLER MENDELSON P.C.
5200 North Palm Avenue, Suite 302
Fresno, California 93704.2225
Telephone: 559.244.7500
Facsimile.: 559.244.7525

Attorneys for Defendant
TARGET CORPORATION

ELECTRONICALLY FILED
10/25/2021 11:06 AM
Kern County Superior Court
By Vanesa Jackson, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF KERN

TREVON MALIK CROFTON,

Plaintiff,

v.

TARGET CORPORATION, a Minnesota
Corporation, and DOES 1 through 20, Inclusive,

Defendants.

Case No. BCV-21-102237

**DEFENDANT TARGET
CORPORATION'S GENERAL DENIAL
AND AFFIRMATIVE DEFENSES TO
PLAINTIFF TREVON MALIK
CROFTON'S UNVERIFIED
COMPLAINT**

ASSIGNED FOR ALL PURPOSES TO
JUDGE THOMAS C. CLARK

Trial Date: TBD
Complaint Filed: September 22, 2021

Defendant TARGET CORPORATION ("Defendant"), answering the Complaint of
Plaintiff TREVON MALIK CROFTON ("Plaintiff"), for itself alone and for no other Defendant,
hereby answers Plaintiff's unverified Complaint as follows:

GENERAL DENIAL

Pursuant to section 431.30 of the California Code of Civil Procedure, as amended,
Defendant denies generally each and every allegation contained in Plaintiff's unverified Complaint,
and further generally denies that Plaintiff has been damaged in the sum or sums prayed for, or in any
other sum or amount whatsoever, or at all, by reason of the matters therein referred to.

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AFFIRMATIVE DEFENSES

Without waiving or excusing the burden of proof of Plaintiff, or admitting that Defendant has any burden of proof or persuasion, and incorporating herein by reference each and every allegation made in the General Denial, Defendant is informed and believes that a reasonable opportunity for investigation and discovery will reveal facts in support of the following:

FIRST AFFIRMATIVE DEFENSE

1. As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each cause of action set forth therein fail to state facts sufficient to constitute a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

2. As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each cause of action set forth therein are barred by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

3. As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each cause of action set forth therein are barred by the doctrine of waiver.

FOURTH AFFIRMATIVE DEFENSE

4. As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each cause of action set forth therein are barred by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

5. As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each cause of action set forth therein are barred by the doctrine of laches.

SIXTH AFFIRMATIVE DEFENSE

6. As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each cause of action set forth therein are barred by the doctrine of consent.

SEVENTH AFFIRMATIVE DEFENSE

7. As a separate and distinct affirmative defense, Defendant alleges that to the extent further investigation and discovery reveal any after-acquired evidence that bars any or certain

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1 remedies in this action, the Complaint and each cause of action set forth therein cannot be maintained
2 against Defendant.

3 **EIGHTH AFFIRMATIVE DEFENSE**

4 8. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff
5 failed to take a reasonable affirmative action to mitigate damages as they are alleged in the Complaint,
6 and thus Plaintiff's recovery from Defendant, if any, must be denied or reduced to the extent that
7 Plaintiff has failed to mitigate damages, including but not limited to Plaintiff's failure to make
8 reasonable efforts to seek and retain subsequent employment substantially similar to Plaintiff's
9 employment with Defendant after the conclusion of Plaintiff's employment with Defendant.

10 **NINTH AFFIRMATIVE DEFENSE**

11 9. As a separate and distinct affirmative defense, Defendant alleges that any
12 recovery to which Plaintiff might other be entitled must be denied or reduced by reason of Plaintiff's
13 contributory or comparative negligence and/or intentional conduct, because Plaintiff failed to exercise
14 reasonable and ordinary care, caution or prudence in order to avoid the alleged incidents, and the
15 alleged injuries and damages, if any, were proximately caused and/or contributed to by Plaintiff's own
16 negligence and/or intentional conduct.

17 **TENTH AFFIRMATIVE DEFENSE**

18 10. As a separate and distinct affirmative defense, Defendant alleges that the
19 Complaint and each cause of action set forth therein are barred, in whole or in part, because the alleged
20 damages or losses sustained by Plaintiff, if any, resulted from causes other than any act or omission
21 on the part of Defendant, including but not limited to negligence and/or intentional conduct of third
22 parties.

23 **ELEVENTH AFFIRMATIVE DEFENSE**

24 11. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's
25 claims for damages are barred, in whole or in part, by the doctrine of avoidable consequences.

26 **TWELFTH AFFIRMATIVE DEFENSE**

27 12. As a separate and distinct affirmative defense, Defendant is informed and
28 believes that a reasonable opportunity for investigation and discovery will reveal, and on that basis

1 alleges, that Plaintiff's claims are barred by Plaintiff's own breach of the duties owed to Defendant
2 under all applicable state and federal laws, including, but not limited to, California Labor Code
3 sections 2854, 2856, 2858, and/or 2859.

4 **THIRTEENTH AFFIRMATIVE DEFENSE**

5 13. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's
6 claim for failure to accommodate is barred because Plaintiff was not a qualified person with a disability
7 as defined by relevant law, nor was Plaintiff regarded as a qualified person with a disability.

8 **FOURTEENTH AFFIRMATIVE DEFENSE**

9 14. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's
10 claim for failure to accommodate is barred because, to the extent that Plaintiff actually had a disability
11 that required accommodation, no reasonable accommodation was available that would not have caused
12 Defendant undue hardship.

13 **FIFTEENTH AFFIRMATIVE DEFENSE**

14 15. As a separate and distinct affirmative defense, Defendant alleges that
15 Plaintiff's claim for failure to accommodate is barred because, to the extent that Plaintiff actually had
16 a disability that required accommodation, Plaintiff failed to engage in the interactive process in good
17 faith.

18 **SIXTEENTH AFFIRMATIVE DEFENSE**

19 16. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff
20 suffered no harm or other prejudice as a result of Defendant's alleged failure to initiate or properly
21 conduct the interactive process because, at all material times, a reasonable accommodation of
22 Plaintiff's alleged disability was not possible.

23 **SEVENTEENTH AFFIRMATIVE DEFENSE**

24 17. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's
25 claim for failure to accommodate is barred because, to the extent that Plaintiff actually had a disability
26 that required accommodation, Plaintiff, even with reasonable accommodation, was unable to perform
27 the essential duties of Plaintiff's positions and/or to perform these duties in a manner that would not
28 endanger Plaintiff's health or safety or the health or safety of others.

EIGHTEENTH AFFIRMATIVE DEFENSE

18. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's claim for failure to accommodate is barred because, to the extent that Plaintiff actually had a disability that required accommodation, Defendant's decision(s) regarding the same were based upon a bona fide occupational qualification.

NINETEENTH AFFIRMATIVE DEFENSE

19. As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each cause of action set forth therein are barred, in whole or in part, because, even if any discriminatory, retaliatory or otherwise unlawful motive existed in connection with any actions taken with respect to Plaintiff (which Defendant denies), Defendant would have engaged in the same conduct absent any alleged discriminatory, retaliatory, or otherwise unlawful motive.

TWENTIETH AFFIRMATIVE DEFENSE

20. As a separate and distinct affirmative defense, Defendant alleges that any employment practice maintained by Defendant, to the extent such practice may have impacted Plaintiff with respect to any alleged protected status under the Fair Employment and Housing Act, is justified either as a bona fide occupational qualification, by business necessity (including undue hardship), by job relatedness, by security regulations, by non-discrimination or affirmative action plans and/or by requirement of law.

TWENTY-FIRST AFFIRMATIVE DEFENSE

21. As a separate and distinct affirmative defense, Defendant alleges, without admitting that Defendant engaged in any of the acts or omissions alleged in the Complaint, that any such acts or omissions purportedly taken by or on behalf of Defendant were taken in good faith as a result of business necessity, for lawful, legitimate, non-discriminatory, and non-retaliatory reasons without malice, oppression, or fraud, and/or based on the relevant facts and circumstances known to Defendant at the time it acted.

TWENTY-SECOND AFFIRMATIVE DEFENSE

22. As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each cause of action set forth therein are barred, in whole or in part, because Defendant

1 acted reasonably in good faith, in conformity with and in reliance on written administrative
2 regulations, orders, rulings, guidelines, approvals, and/or interpretations of governmental agencies,
3 and on the basis of a good-faith and reasonable belief that it had complied fully with applicable law.

4 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

5 23. As a separate and distinct affirmative defense, Defendant alleges that the
6 Complaint and each cause of action set forth therein cannot be maintained against Defendant because
7 Defendant's acts or omission alleged in the Complaint were protected by the managerial privilege as
8 all actions taken with respect to Plaintiff's employment were undertaken and exercised with proper
9 managerial discretion in good faith, and for legitimate, lawful reasons.

10 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

11 24. As a separate and distinct affirmative defense, Defendant alleges that any
12 unlawful or wrongful acts, if any, taken by Defendant's officers, directors, managing agents, and/or
13 employees were outside the course and scope of their employment and authority, and such acts, if any,
14 were not authorized, ratified, or condoned by Defendant, and Defendant did not know and/or should
15 not have known of such conduct.

16 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

17 25. As a separate and distinct affirmative defense, Defendant alleges that the
18 Complaint and each cause of action set forth therein are barred by Plaintiff's failure to exhaust all
19 internal grievance and/or complaint procedures.

20 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

21 26. As a separate and distinct affirmative defense, Defendant alleges that the
22 Complaint and each cause of action set forth therein are barred, in whole or in part, because at all
23 relevant times, (a) Defendant acted in good faith and exercised reasonable care to prevent and promptly
24 correct any discriminatory, retaliatory, or otherwise unlawful behavior (which Defendant denies
25 occurred), including but not limited to promulgating and maintaining anti-discrimination, anti-
26 retaliation and/or open-door policies with an internal grievance and/or complaint procedure, which
27 were communicated to Plaintiff; (b) Plaintiff unreasonably failed to take advantage of the established
28 internal grievance and/or complaint procedure and any preventive or corrective opportunities provided

1 to Plaintiff by the employer or to otherwise avoid harm; and, (c) Plaintiff's reasonable use of
 2 Defendant's procedures as required by Defendant's employment policies would have prevented at
 3 least some, if not all, of the purported harm that Plaintiff allegedly suffered.

4 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

5 27. As a separate and distinct affirmative defense, Defendant alleges that the
 6 Complaint and each cause of action set forth therein are barred by Plaintiff's failure to exhaust
 7 administrative remedies.

8 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

9 28. As a separate and distinct affirmative defense, Defendant alleges that the
 10 Complaint and each cause of action set forth therein are barred, in whole or in part, to the extent that
 11 they exceed the scope of the charges made by Plaintiff before the California Department of Fair
 12 Employment and Housing and/or the Equal Employment Opportunity Commission, if any.

13 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

14 29. As a separate and distinct affirmative defense, Defendant alleges that the
 15 Complaint and each cause of action set forth therein cannot be maintained against Defendant because
 16 Plaintiff's claims are barred by the applicable statutes of limitations, including but not limited to those
 17 set forth in California Government Code sections 12960 and 12965 and California Code of Civil
 18 Procedure sections 335.1, 338(a) and 339(l).

19 **THIRTIETH AFFIRMATIVE DEFENSE**

20 30. As a separate and distinct affirmative defense, Defendant alleges that the
 21 Complaint and each cause of action set forth therein seeking recovery for the alleged physical, mental,
 22 and/or emotional distress injuries are preempted and barred by the exclusive remedy provisions of the
 23 California Workers' Compensation Act, California Labor Code section 3600, *et seq.*, and California
 24 Labor Code section 132(a) to the extent that (a) an employee/employer relationship existed subject to
 25 workers' compensation coverage; (b) Defendant provided workers' compensation insurance at no cost
 26 to Plaintiff; (c) Plaintiff's conduct was within the course and scope of employment; and, (d) the alleged
 27 injuries, if any, were proximately caused by the employment, and accordingly, this Court lacks subject
 28 matter jurisdiction over said claims.

THIRTY-FIRST AFFIRMATIVE DEFENSE

31. Defendant alleges that some or all of Plaintiff's claims for damages are barred by the doctrine of set-off.

THIRTY-SECOND AFFIRMATIVE DEFENSE

32. As a separate and distinct affirmative defense, Defendant alleges that any recovery to which Plaintiff might otherwise allegedly be entitled must be offset, denied, or reduced by any benefits, monies, and/or compensations that Plaintiff had received or will receive from any other sources, including but not limited to unemployment insurance, private insurance, pension benefits, workers' compensation, and any sums earned by Plaintiff in other employment.

THIRTY-THIRD AFFIRMATIVE DEFENSE

33. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff has failed to state a claim upon which relief may be granted, which includes, *inter alia*, recovery of costs of suit and attorneys' fees, penalties, compensatory damages, punitive damages, and special and incidental damages.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

34. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff is not entitled to recover punitive, exemplary, and/or emotional distress damages on the grounds that any award of punitive, exemplary, or emotional distress damages under California law in general, and/or as applied to the facts of this specific action, violates Defendant's constitutional rights under provisions of the United States and California Constitutions, including but not limited to the equal protection and due process clauses of the Fifth and Fourteenth Amendments of the United States Constitution, the excessive fines and cruel and unusual punishment clauses of the Eighth Amendment of the United States Constitution, and Article I, Sections 7 and 17 and Article IV, Section 16 of the California Constitution.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

35. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff is precluded from recovering punitive damages from Defendant, because (a) any actions, conducts, statements, or omissions alleged in the Complaint were not taken with advance knowledge, conscious

disregard, authorization, or ratification of malice, oppression, or fraud on the part of Defendant or any officer, director, or managing agent thereof; (b) Defendant's good faith efforts to prevent discrimination, retaliation, and otherwise unlawful behavior bars any award of punitive damages; and, (c) the Complaint and each cause of action set forth therein fail to plead facts sufficient to support the recovery of punitive damages under the applicable provisions of California Civil Code section 3294, or such other statutes of similar effect that may be applicable. *See* CAL. CIV. CODE § 3294(b).

RESERVATION OF ADDITIONAL DEFENSES

Defendant alleges that because the Complaint is couched in conclusory terms, all affirmative defenses that may be applicable cannot be fully anticipated. Accordingly, the right to assert additional affirmative defenses, if and to the extent that such affirmative defenses are applicable, is reserved. In addition, Defendant reserves the right to amend this answer should Defendant later discover facts demonstrating the existence of new and/or additional affirmative defenses, and/or should a change in the law support the inclusion of new and/or additional affirmative defenses.

JURY DEMAND

Defendant requests trial by jury on all causes of action triable to a jury.

PRAYER

WHEREFORE, DEFENDANT PRAYS FOR JUDGMENT AS FOLLOWS:

1. That Plaintiff takes nothing by the way of the Complaint;
2. That judgment be awarded in favor of Defendant;
3. That Plaintiff's Complaint be dismissed in its entirety as to Defendant;
4. That Defendant be awarded all costs of suit incurred by it in this action;
5. That Defendant be awarded its reasonable attorneys' fees; and,
6. For such other and further relief as the Court may deem just and proper.

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1 Dated: October 25, 2021

LITTLER MENDELSON P.C.

Vanessa Cohn

Irene V. Fitzgerald
Vanessa M. Cohn

Attorneys for Defendant
TARGET CORPORATION

PROOF OF SERVICE BY ELECTRONIC TRANSMISSION

I am employed in County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 5200 North Palm Avenue, Suite 302, Fresno, California 93704.2225. On this 25th day of October, 2021, I served a copy of the within document(s):

**DEFENDANT TARGET CORPORATION'S GENERAL
DENIAL AND AFFIRMATIVE DEFENSES TO PLAINTIFF
TREVON MALIK CROFTON'S UNVERIFIED COMPLAINT**

Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses on the attached service list on the dates and at the times stated thereon. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. The electronic notification address of the person making the service is lhammond@littler.com:

A. Jacob Nalbandyan, Esq. (SBN 272023)

jonalbandyan@LNtriallawyers.com

Ryan Handley, Esq. (SBN 334695)

rhandley@LNtriallawyers.com

LEVIN & NALBANDYAN, LLP

811 Wilshire Blvd, Suite 800

Los Angeles, CA 90017

Tel: (213) 232-4848

Fax: (213) 232-4849

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on this 25th day of October, 2021, at Fresno, California.

/s/ Lisa Hammond

Lisa Hammond

4836-0776-7037.1 / 052067-1000

Exhibit C



SUPERIOR COURT OF CALIFORNIA
COUNTY OF KERN
BAKERSFIELD COURT
1415 TRUXTUN AVENUE
BAKERSFIELD CA 93301

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF KERN

SEPTEMBER 24, 2021
By Vickie Fogerson DEPUTY

PLAINTIFF/PETITIONER:

TREVON MALIK CROFTON

DEFENDANT/RESPONDENT:

TARGET CORPORATION, A MINNESOTA CORPORATION

**NOTICE OF ASSIGNMENT TO JUDGE FOR ALL PURPOSES AND
NOTICE OF ORDER TO SHOW CAUSE RE CRC RULE 3.110 AND
NOTICE OF CASE MANAGEMENT CONFERENCE**

CASE NUMBER:

BCV-21-102237

By order of the presiding judge, the above entitled case is assigned to the Honorable Thomas S. Clark for all purposes. It will be managed on the direct calendar program in Bakersfield Department 17 until its conclusion. Peremptory challenges, if any, must be made within the times set out in CCP §170.6. Please include the initials **TSC** after the case number on all future pleadings filed in this case.

TO PLAINTIFF AND PLAINTIFF'S COUNSEL:

You are ordered to appear on **January 07, 2022** in **Bakersfield Department 17** at **8:30 AM** in the above entitled court to give any legal reason why sanctions shall not be imposed for failure to serve the complaint on all named defendants and file proof(s) of service with the court within sixty (60) days after the filing of the complaint pursuant to California Rules of Court, Rule 3.110. All appearances are mandatory, unless the court receives the required proof(s) of service five (5) court days prior to the hearing date, and then no appearance is necessary.

TO EACH PARTY AND THEIR RESPECTIVE ATTORNEY(S) OF RECORD:

This case is set for Case Management Conference, by the Honorable Thomas S. Clark on **March 23, 2022** at **8:15 AM** in **Bakersfield Department 17** of the above entitled court. Case management statements are to be filed at least fifteen (15) days prior to the conference in accordance with California Rules of Court, Rules 3.720 – 3.730. All parties shall comply with California Rules of Court, Rules 3.720 – 3.730.

NOTICE TO PLAINTIFF'S COUNSEL

IMPORTANT: You are required to serve this Notice of Assignment and Notice of Order to Show Cause Date and Notice of Case Management Conference Date with the Summons, Complaint [Local Rule 3.7(a)], Alternative Dispute Resolution (ADR) Information Packet, and ADR Stipulation and Order Form (California Rules of Court, Rule 3.221).

NOTICE TO CROSS COMPLAINANT'S COUNSEL

IMPORTANT: If you are bringing a cross complaint against new parties, you are, likewise, required to serve this Notice of Assignment pursuant to California Rules of Court, Rule 3.110 and Notice of Order to Show Cause date and Notice of Case Management Conference date on the new cross defendants.

TAMARAH HARBER-PICKENS
CLERK OF THE SUPERIOR COURT

Date: September 24, 2021

By: Vickie Fogerson
Vickie Fogerson, Deputy Clerk

The Clerk of the Superior Court's office has received a civil complaint from you for filing. Pursuant to the Trial Court Delay Reduction Act, your case has been assigned to the Honorable Thomas S. Clark as monitoring judge.

Judge Thomas S. Clark has instituted a direct calendaring system for all cases assigned to him/her as the monitoring judge.

All law and motion, case management and trial setting conferences, ex parte matters and trials will be scheduled before him/her in Bakersfield Department 17. This will involve all cases in which the clerk has assigned the initials TSC to the complaint at the time of filing. Counsel is expected to make the initials of the monitoring judge a part of the case number on all pleadings and papers.

Law & Motion and Ex-Parte hearing dates must be pre-cleared by contacting the Direct Calendaring Clerk at (661) 868-4900. Tentative rulings can be located by visiting "<http://www.kern.courts.ca.gov/>", after 4:00 pm. Click on the Non-Criminal Case Information link to enter the case number. Please note, not all departments provide tentative rulings.

At the time of filing the complaint, plaintiff's counsel will be given a Notice of Case Management Conference which sets a conference approximately one hundred eighty (180) days after filing of the complaint. This notice must be served with the summons and complaint on all defendants. Defendants must serve the notice on all cross-defendants named. The notice must also be served on interveners and lien claimants.

Telephonic appearances for case management conferences and law and motion hearings are available through Court Call. The toll free telephone number for Court Call is (888) 88-COURT. Proper procedures must be complied with under California Rules of Court, Rule 3.670. Arrangements to make appearances through Court Call must be made at least five (5) court days prior to the hearing date.

Another judge will hear settlement conferences in cases assigned to Judge Thomas S. Clark. However, those cases that do not settle will be set for trial before him/her.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF KERN
SPECIAL RULES RELATING TO CASE MANAGEMENT CONFERENCES**

At least fifteen (15) days prior to the case management conference, each party shall prepare, file and serve on each other party a case management conference statement providing the Court with the following information:

1. The “at-issue” status of the case including any new parties that may be contemplated;
2. A brief statement of the type of case and the general facts or contentions;
3. A description of the discovery done to date and that contemplated to be done;
4. Estimated time for trial and whether a jury is demanded;
5. Whether or not the case is entitled to priority in trial setting and if so, the legal authority thereof;
6. An evaluation of the case for alternative dispute resolution, including arbitration (judicial or binding), mediation or private judge handling;
7. If a person injury action, a description of the injuries sustained by each plaintiff and the elements of claimed damage;
8. A statement of any settlement negotiations undertaken thus far;
9. The name of the attorney primary responsible for the case on behalf of the party filing the statement.

More than one party may join in the filing of a single statement.

The case management conference shall be attended by the attorney primarily responsible for the case on behalf of each party or a member of his or her firm or counsel formally associated in the case. The attorney attending shall be thoroughly familiar with the case, and be able to engage in meaningful discussions with court and counsel, and to enter into agreements on behalf of his or her client on the following subjects:

1. The “at-issue” status of the case including the dismissal of the unnamed doe defendants or cross-defendants by agreement of all parties;
2. Discovery conducted and remaining to be done;
3. Amenability of the case to alternative dispute resolution including, but no limited to, arbitration (judicial or binding), mediation, and private judge handling.
4. Delineation of issues including stipulation of facts not in substantial controversy;
5. Settlement prospects;
6. Setting the matter for trial, pre-trial conferences, settlement conference or further case management conference;
7. Any other matters relevant to the processing of the case to a final resolution.

Any violation of these rules shall result in the imposition of substantial sanctions which may include monetary, issue, termination, or other appropriate sanctions.

CERTIFICATE OF POSTING

The undersigned, of said Kern County, certify: That I am a Deputy Clerk of the Superior Court of the State of California, in and for the County of Kern, that I am a citizen of the United States, over 18 years of age, I reside in or am employed in the County of Kern, and not a party to the within action, that I served the *Notice of Assignment/Notice of Order to Show Cause Re CRC 3.110/Notice of Case Management Conference* attached hereto on all interested parties and any respective counsel of record in the within action by posting true copies thereof, to the Superior Court of California, County of Kern, Non-Criminal Case Information Portal (<https://odyprodportal.kern.courts.ca.gov/portalprod>).

Date of Posting: September 24, 2021

Place of Posting: Bakersfield, CA

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

TAMARAH HARBER-PICKENS
CLERK OF THE SUPERIOR COURT

Date: September 24, 2021

By: Vickie Fogerson
Vickie Fogerson, Deputy Clerk

Exhibit D

Irene V. Fitzgerald, Bar No. 266949
ifitzgerald@littler.com
Vanessa M. Cohn, Bar No. 314619
vcohn@littler.com
LITTLER MENDELSON P.C.
5200 North Palm Avenue, Suite 302
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Telephone: 559.244.7500
Facsimile.: 559.244.7525

Attorneys for Defendant
TARGET CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF KERN

TREVON MALIK CROFTON,

Plaintiff,

v.

TARGET CORPORATION, a Minnesota
Corporation, and DOES 1 through 20, Inclusive,

Defendants.

Case No. BCV-21-102237

**DEFENDANT TARGET
CORPORATION'S NOTICE TO
PLAINTIFF OF REMOVAL OF CIVIL
ACTION TO FEDERAL COURT**

ASSIGNED FOR ALL PURPOSES TO
JUDGE THOMAS C. CLARK

Trial Date: TBD
Complaint Filed: September 22, 2021

TO PLAINTIFF AND TO PLAINTIFF'S COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on October 26, 2021, Defendant TARGET CORPORATION ("DEFENDANT" or "TARGET"), filed a Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, in the United States District Court for the Eastern District of California. A true and correct copy of Defendant's Notice of Removal is attached hereto as Exhibit 1.

Dated: October 26, 2021

LITTLER MENDELSON P.C.



Irene V. Fitzgerald
Vanessa M. Cohn
Attorneys for Defendant
TARGET CORPORATION

**EXHIBITS HERETO EXCERPTED
TO AVOID FILING OF
DUPLICATIVE PAPERS**

PROOF OF SERVICE BY ELECTRONIC TRANSMISSION

I am employed in County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 5200 North Palm Avenue, Suite 302, Fresno, California 93704.2225. On this 26th day of October, 2021, I served a copy of the within document(s):

**DEFENDANT TARGET CORPORATION'S NOTICE TO
PLAINTIFF OF REMOVAL OF CIVIL ACTION TO FEDERAL
COURT**

Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses on the attached service list on the dates and at the times stated thereon. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. The electronic notification address of the person making the service is lhammond@littler.com:

A. Jacob Nalbandyan, Esq. (SBN 272023)

jonalbandyan@LNtriallawyers.com

Ryan Handley, Esq. (SBN 334695)

rhandley@LNtriallawyers.com

LEVIN & NALBANDYAN, LLP

811 Wilshire Blvd, Suite 800

Los Angeles, CA 90017

Tel: (213) 232-4848

Fax: (213) 232-4849

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on this 26th day of October, 2021, at Fresno, California.

/s/ Lisa Hammond

Lisa Hammond

4823-1310-4381.1 / 052067-1000

Exhibit E

Irene V. Fitzgerald, Bar No. 266949
ifitzgerald@littler.com
Vanessa M. Cohn, Bar No. 314619
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Facsimile.: 559.244.7525

Attorneys for Defendant
TARGET CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF KERN

TREVON MALIK CROFTON,

Plaintiff,

v.

TARGET CORPORATION, a Minnesota
Corporation, and DOES 1 through 20, Inclusive,

Defendants.

Case No. BCV-21-102237

**DEFENDANT TARGET
CORPORATION'S NOTICE TO STATE
COURT OF REMOVAL OF CIVIL
ACTION TO FEDERAL COURT**

ASSIGNED FOR ALL PURPOSES TO
JUDGE THOMAS C. CLARK

Trial Date: TBD
Complaint Filed: September 22, 2021

TO THE CLERK OF THE ABOVE-TITLED COURT:

PLEASE TAKE NOTICE that on October 26, 2021, the above-captioned matter was removed from the Superior Court of the State of California, County of Kern, where it was previously pending, to the United States District Court for the Eastern District of California, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. A copy of the Notice of Removal filed by Defendant TARGET CORPORATION is attached hereto as Exhibit 1.¹

PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. § 1446(d), the filing of a Notice of Removal in the United States District Court, together with the filing of a copy of a Notice of Filing Notice of Removal with this Court, effects the removal of this action, and this Court

¹ So as to avoid duplicative filing, the attachments to Exhibits D and E thereto are excerpted.

1 may proceed no further unless and until the case is remanded.

2 Dated: October 26, 2021

LITTLER MENDELSON P.C.

Vanessa Cohn

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6 Irene V. Fitzgerald
Vanessa M. Cohn

7 Attorneys for Defendant
8 TARGET CORPORATION
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**EXHIBITS HERETO EXCERPTED
TO AVOID FILING OF
DUPLICATIVE PAPERS**

PROOF OF SERVICE BY ELECTRONIC TRANSMISSION

I am employed in County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 5200 North Palm Avenue, Suite 302, Fresno, California 93704.2225. On this 26th day of October, 2021, I served a copy of the within document(s):

**DEFENDANT TARGET CORPORATION'S NOTICE TO
STATE COURT OF REMOVAL OF CIVIL ACTION TO
FEDERAL COURT**

Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses on the attached service list on the dates and at the times stated thereon. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. The electronic notification address of the person making the service is lhammond@littler.com:

A. Jacob Nalbandyan, Esq. (SBN 272023)

jnalandyan@LNtriallawyers.com

Ryan Handley, Esq. (SBN 334695)

rhandley@LNtriallawyers.com

LEVIN & NALBANDYAN, LLP

811 Wilshire Blvd, Suite 800

Los Angeles, CA 90017

Tel: (213) 232-4848

Fax: (213) 232-4849

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on this 26th day of October, 2021, at Fresno, California.

/s/ Lisa Hammond

Lisa Hammond

4836-5226-6749.1 / 052067-1000